

**Executive Summary – Enforcement Matter – Case No. 45023**  
**City of Del Rio**  
**RN102143294**  
**Docket No. 2012-1914-MSW-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MSW

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Del Rio Landfill, 1897 Railway, Del Rio, Val Verde County

**Type of Operation:**

Type I municipal solid waste ("MSW") landfill

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** January 25, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$18,750

**Amount Deferred for Expedited Settlement:** \$3,750

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$15,000

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 45023**  
**City of Del Rio**  
**RN102143294**  
**Docket No. 2012-1914-MSW-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** July 31, 2012  
**Date(s) of NOE(s):** August 31, 2012

***Violation Information***

1. Failed to have at least one individual licensed to supervise or manage a MSW facility. Specifically, the Facility's operator did not have a valid Class A MSW landfill operator license [30 TEX. ADMIN. CODE § 30.201(b) and MSW Permit No. 207A].
2. Failed to repair eroded areas of the intermediate cover within five days of detection. Specifically, the intermediate cover on cell no. 4 was eroded and contained exposed waste [30 TEX. ADMIN. CODE § 330.165(g) and MSW Permit No. 207A].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 30 days:
  - i. Ensure at least one individual at the Facility obtains the proper MSW operator license; and
  - ii. Repair the eroded areas of the intermediate cover at the Facility.
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**Executive Summary – Enforcement Matter – Case No. 45023**  
**City of Del Rio**  
**RN102143294**  
**Docket No. 2012-1914-MSW-E**

**TCEQ Enforcement Coordinator:** Keith Frank, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-1203; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Roberto Fernandez, Mayor, City of Del Rio, 109 West Broadway, Del Rio, Texas 78840

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

**DATES**

**Assigned PCW**

4-Sep-2012  
20-Sep-2012

**Screening** 20-Sep-2012

**EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** City of Del Rio  
**Reg. Ent. Ref. No.** RN102143294  
**Facility/Site Region** 16-Laredo **Major/Minor Source** Major

## CASE INFORMATION

**Enf./Case ID No.** 45023 **No. of Violations** 2  
**Docket No.** 2012-1914-MSW-E **Order Type** 1660  
**Media Program(s)** Municipal Solid Waste **Government/Non-Profit** Yes  
**Multi-Media** **Enf. Coordinator** Keith Frank  
**EC's Team** Enforcement Team 7

**Admin. Penalty \$ Limit Minimum** \$0 **Maximum** \$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1** \$18,750

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 0.0% Enhancement **Subtotals 2, 3, & 7** \$0

**Notes** No adjustment for compliance history.

**Culpability** No 0.0% Enhancement **Subtotal 4** \$0

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** \$0

**Economic Benefit** 0.0% Enhancement\* **Subtotal 6** \$0

Total EB Amounts \$587  
Approx. Cost of Compliance \$2,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

**Final Subtotal** \$18,750

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

0.0%

**Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** \$18,750

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty** \$18,750

**DEFERRAL**

20.0%

Reduction

**Adjustment** -\$3,750

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

\$15,000

Screening Date 20-Sep-2012

Docket No. 2012-1914-MSW-E

PCW

Respondent City of Del Rio

Policy Revision 3 (September 2011)

Case ID No. 45023

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102143294

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 20-Sep-2012

Docket No. 2012-1914-MSW-E

PCW

Respondent City of Del Rio

Policy Revision 3 (September 2011)

Case ID No. 45023

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102143294

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 30.201(b) and Municipal Solid Waste ("MSW") Permit No. 207A

Violation Description

Failed to have at least one individual licensed to supervise or manage a MSW facility. Specifically, the Facility's operator did not have a valid Class A MSW landfill operator license.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				30.0%
	Potential	x			

## &gt;&gt; Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

## Violation Events

Number of Violation Events 2 Number of violation days 51

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$15,000

Two monthly events are recommended based on documentation of the violation during the July 31, 2012 investigation to the September 20, 2012 screening date.

## Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$500

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

# Economic Benefit Worksheet

**Respondent** City of Del Rio  
**Case ID No.** 45023  
**Reg. Ent. Reference No.** RN102143294  
**Media** Municipal Solid Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	31-Jul-2012	31-Jul-2012	0.00	\$0	\$500	\$500
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to obtain the required MSW operator license. Date Required is the investigation date. Final Date is the investigation date.

Approx. Cost of Compliance

\$500

TOTAL

\$500



**Screening Date** 20-Sep-2012  
**Respondent** City of Del Rio  
**Case ID No.** 45023  
**Reg. Ent. Reference No.** RN102143294  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Keith Frank

**Docket No.** 2012-1914-MSW-E

**PCW**

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**Violation Number** 2

**Rule Cite(s)**

30 Tex. Admin. Code § 330.165(g) and MSW Permit No. 207A

**Violation Description**

Failed to repair eroded areas of the intermediate cover within five days of detection. Specifically, the intermediate cover on cell no. 4 was eroded and contained exposed waste.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential		x		

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix  
Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1

51 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,750

One quarterly event is recommended based on documentation of the violation during the July 31, 2012 investigation to the September 20, 2012 screening date.

**Good Faith Efforts to Comply**

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$3,750

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$87

**Violation Final Penalty Total** \$3,750

**This violation Final Assessed Penalty (adjusted for limits)** \$3,750

# Economic Benefit Worksheet

**Respondent** City of Del Rio  
**Case ID No.** 45023  
**Reg. Ent. Reference No.** RN102143294  
**Media** Municipal Solid Waste  
**Violation No.** 2

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,500	31-Jul-2012	31-May-2013	0.83	\$4	\$83	\$87
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to repair eroded landfill cover material. Date Required is the investigation date. Final Date is the estimated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$1,500

**TOTAL**

\$87



## TCEQ Compliance History Report

**PENDING** Compliance History Report for CN600756290, RN102143294, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600756290, City of Del Rio  
**Classification:** SATISFACTORY  
**Rating:** 1.99

**Regulated Entity:** RN102143294, City of Del Rio Landfill  
**Classification:** HIGH  
**Rating:** 0.00

**Complexity Points:** 5  
**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 1897 RAILWAY, DEL RIO, TX 78840, VAL VERDE COUNTY

**TCEQ Region:** REGION 16 - LAREDO

**ID Number(s):**  
**MUNICIPAL SOLID WASTE DISPOSAL PERMIT 207A**      **USED OIL REGISTRATION C87325**

**Compliance History Period:** September 01, 2007 to August 31, 2012      **Rating Year:** 2012      **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** September 19, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** September 19, 2007 to September 19, 2012

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Keith Frank      **Phone:** (512) 239-1203

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	August 05, 2008	(687220)
Item 2	August 24, 2009	(765116)
Item 3	August 13, 2010	(843995)
Item 4	October 28, 2011	(963980)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF DEL RIO  
RN102143294

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2012-1914-MSW-E

I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Del Rio ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a Type I Municipal Solid Waste ("MSW") landfill at 1897 Railway in Del Rio, Val Verde County, Texas (the "Facility").
2. The Facility involves or involved the management of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 5, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Dollars (\$15,000) of the administrative penalty and Three Thousand Seven Hundred Fifty Dollars (\$3,750)

is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to have at least one individual licensed to supervise or manage a MSW facility, in violation of 30 TEX. ADMIN. CODE § 30.201(b) and MSW Permit No. 207A, as documented during an investigation conducted on July 31, 2012. Specifically, the Facility's operator did not have a valid Class A MSW landfill operator license.
2. Failed to repair eroded areas of the intermediate cover within five days of detection, in violation of 30 TEX. ADMIN. CODE § 330.165(g) and MSW Permit No. 207A, as documented during an investigation conducted on July 31, 2012. Specifically, the intermediate cover on cell no. 4 was eroded and contained exposed waste.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Del Rio, Docket No. 2012-1914-MSW-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
  - i. Ensure at least one individual at the Facility obtains the proper MSW operator license, in accordance with 30 TEX. ADMIN. CODE § 30.201; and
  - ii. Repair the eroded areas of the intermediate cover at the Facility, in accordance with 30 TEX. ADMIN. CODE § 330.165.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager  
Laredo Regional Office  
Texas Commission on Environmental Quality  
707 East Calton Road, Suite 304  
Laredo, Texas 78041-3887

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.



8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

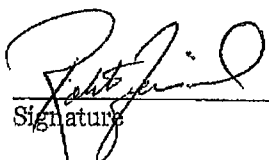
2/17/13  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

12-17-12  
\_\_\_\_\_  
Date

Roberto "Bobby" Fernandez

Mayor City of Del Rio

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Del Rio

\_\_\_\_\_  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.